

**The New York Times**

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**JUN - 8 1992**

June 3, 1992

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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**JUN 8 1992**

Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M St., NW  
Washington, DC 20554

**FCC MAIL BRANCH**

Dear Ms. Searcy:

I am writing to comment on the Notice of Proposed Rulemaking, CC Docket No. 92-90, pertaining to implementation of the Telephone Consumer Protection Act of 1991, P.L. 102-243.

I am the Group Sales Manager of telephone sales for the Circulation Department of The New York Times. At The Times telephone sales are a major means of acquiring new subscribers and for communicating with current customers. Calling takes place in the New York metropolitan area and to major cities throughout the U.S. To date our experience has been strongly positive.

Because of the importance of telephone sales to the circulation of The New York Times and to other newspapers I feel it is important to comment to the Federal Communications Commission on some aspects of the Telephone Consumer Protection Act. I urge the Commission, in implementing the provisions of P.L. 102-243, to consider the unique role played by newspapers their communities: to impart news and information, foster discussion of public issues, provide cohesion to diverse communities, to educate, and promote literacy. In fact at The New York Times, a growing part of telephone calling is devoted to reaching educators, students, and parents about using The Times in the classroom. The response from these groups has been enthusiastic. So in these ways, telephone contacts by newspapers differ from solicitation by other businesses and merit particular consideration in implementing the Act.

Following are comments on P.L. 102-243 as it pertains to subscriber sales and service at The New York Times:

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We favor exempting newspapers from the prohibition on calls made with artificial or prerecorded voices when the call is made for billing or collection purposes or when a prerecorded "please wait" message is used when an operator is not available.

The Times does not currently use prerecorded messages in outbound telephone calling. However, we would like to preserve that option. A prerecorded "please wait" message in particular would prevent calls from being disconnected before a live operator is able to speak.

We oppose implementation of a "national database" of people who do not wish to receive telephone solicitations for four reasons:

1) The Times already has effective procedures to respect the requests of those who do not want to be called. Following is how such requests are honored.

First, in response to a phone call or letter the person's telephone number(s) are blocked immediately from any lists being actively solicited. The same day the phone numbers are also added to a "never-call" database to prevent any future solicitations. The sales staff maintains telephone numbers in the database permanently. As marketing lists are purchased they are matched by computer against the database and "never-call" numbers are deleted from the lists. Our list supplier is not paid for these deleted records.

Then, if an objection pertains to a particular call, the call is traced internally and the time, date and solicitor are identified by a computerized telephone system. The solicitor is interviewed by the senior manager on duty and appropriate action is taken.

Finally, every contact is responded to by telephone or letter within 24 business hours with a full explanation. A management report is written with supporting documents and kept permanently on file by three sales managers. These procedures are periodically reviewed and all telephone sales managers and supervisors are trained to implement them.

2) The Times phone sales operation is already responsive to the communities in which it operates.

Among those contacted by our telephone sales group are potential subscribers, classified advertisers, R.O.P. advertisers, government officials, educators, and employees. The business success of the Times depends on literally millions of people in New York and other cities who subscribe and advertise. It is plainly not in our business interest nor that of any other newspaper to continue to contact people who do not want to be called.

In addition to a "do-not-call" database The Times takes several other steps to safeguard individual privacy.

- Nonsubscribers in most areas served by The Times are contacted once per year to determine interest in a subscription. Under no circumstances is a neighborhood contacted more than once in three months.
- The Times does not use sequential exchange dialing.
- Training for handling "do-not-call" requests is ongoing and universal for telephone sales and customer service staff.
- The Times maintains a widely publicized national toll-free number through which "do-not-call requests" can be registered.
- The Times purges active subscribers from telephone marketing lists.

Our current safeguards are effective. "Do-not-call" requests or other objections to telephone calls in 1992 amount to less than 0.003% of total persons contacted. Of the handful of objections received all were resolved to the satisfaction of the party contacting us.

3) Accessing a "national database" would place a burden on The Times by holding telephone calling hostage to a database over which The Times would have no control. In addition, regular interaction with such a database would drive up costs by requiring additional software programming and staff. The burden for smaller newspapers without extensive computer resources would be truly onerous.

4) Finally, use of a "national database" would undermine the incentive all newspapers now have to maintain their own "do-not-call" files and procedures.

In view of these points, therefore, we also favor allowing newspapers to continue to maintain internal "do-not-call" files and procedures.

In conclusion, as the Federal Communications Commission implements provisions of P.L. 102-243 I ask the Commission to consider the unique role of newspapers compared to other commercial callers, the self-policing at our newspaper and most others to protect caller privacy, and the responsiveness of newspapers to the concerns of their communities.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Mark Sinz", written in a cursive style.

Mark Sinz  
Group Sales Manager  
The New York Times